

EXHIBIT E

Deposition of Gatewood West

00001
1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS
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3 -----X
4 SHAWN DRUMGOLD,
5 Plaintiff

6 V. Case No. 04-11193NG
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8 TIMOTHY CALLAHAN, FRANCIS
9 M. ROACHE, PAUL MURPHY,
10 RICHARD WALSH, and THE
11 CITY OF BOSTON,
12 Defendants

13 -----X

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15 DEPOSITION OF GATEWOOD WEST, a
16 witness called to testify by and on behalf of
17 the Defendants, pursuant to the applicable
18 rules of the Federal Rules of Civil
19 Procedure, before M. ELAINE GANSKA, a
20 Stenographic Reporter and Notary Public in
21 and for the Commonwealth of Massachusetts, at
22 the offices of Bonner Kiernan Trebach &
23 Crociata, Attorneys at Law, One Liberty
24 Square, Boston, Massachusetts, on Monday,
25 July 23, 2007, commencing at 2:06 p.m.

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27 FEDERAL COURT REPORTERS
28 781-585-6741 978-535-8333

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1 APPEARANCES

2 ROSEMARY SCAPICCHIO, Attorney at Law
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3 Boston, Massachusetts 02114
ON BEHALF OF: The Plaintiff

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5 BONNER KIERNAN TREBACH & CROCIATA
BY: PAULA J. CLIFFORD, Attorney at Law
6 One Liberty Square
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7 ON BEHALF OF: Defendant Walsh

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9 WILLIAM M. WHITE, JR. and ASSOCIATES
BY: WILLIAM M. WHITE, JR., Attorney at Law
One Faneuil Hall Marketplace
10 Boston, Massachusetts 02109
ON BEHALF OF: Defendant Murphy

11

12 JOHN P. ROACHE and ASSOCIATES
BY: JOHN P. ROACHE, Attorney at Law
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14 ON BEHALF OF: Defendants Roache and City
of Boston

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16 MORGAN, BROWN & JOY
BY: MARY JO HARRIS, Attorney at Law
17 200 State Street
Boston, Massachusetts 02109
18 ON BEHALF OF: Defendant Callahan

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00079

1 Q. Okay.

2 A. Because I was not interested in the legal
3 facts. I was interested in trying to help
4 Rosemary get whatever information she needed
5 and trying to be calm and reassuring --

6 Q. Okay.

7 A. -- to these young people and to their
8 mothers.

9 Q. Do you recall if you were speaking to them in
10 order to elicit information from them about
11 the facts of what they observed --

12 A. Right.

13 Q. -- or whether you were trying to reassure
14 them or calm them prior to testifying?

15 A. No. I was -- Rosemary said, "Would you go
16 and take an affidavit?"

17 I said, "Well what does that
18 mean?"

19 She said, "Just get them to tell
20 their story and write it down."

21 Q. Okay.

22 A. "Just let them dictate to you what they
23 remember."

24 Q. Okay. And do you remember how many of these

00080

1 individuals you spoke to?

2 A. Just two.

3 Q. Just two.

4 And you're clear that there were

5 two?

6 A. I think it's just two.

7 It was in the cafeteria at the

8 courtroom.

9 Q. Okay.

10 A. And she was going to use those notes before

11 she interviewed them on the witness stand if

12 she decided to interview them.

13 Q. Okay. Do you recall -- and forgive me if I'm

14 repeating myself, but do you recall that

15 these were two women?

16 A. Yes.

17 Q. Okay. And is it your recollection that they

18 were two of the witnesses who had been young

19 women at the time of the original trial?

20 A. I believe so, yes.

21 Q. Were they both accompanied by their moms when

22 you spoke with them?

23 A. I believe so.

24 Q. Do you recall the name Vantrell McPherson?

00081

1 A. I think he asked me that. I don't remember

2 that name.

3 Q. Okay. So you don't recall that being one of

4 the witnesses --

5 A. It could have been.

6 Q. -- one way or the other?

7 A. I don't remember the name.

8 Q. Okay. Do you remember whether you saw them

9 on the same day?

10 A. Yes.

11 Q. Were they seated together when you spoke with

12 them?

13 A. No.

14 Q. So you saw them --

15 A. There was one daughter and mother and then

16 another daughter and mother.

17 Q. Okay, fair enough.

18 Do you recall the substance of

19 what the first young woman said to you when

20 you began speaking with them?

21 A. I don't remember the substance at all.

22 Q. Okay. Do you recall whether you were given

23 any kind of a script or a list of questions

24 to ask the witnesses?

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1 A. I must have been, but I don't remember what
2 it was.

3 Q. Do you recall whether it was typewritten or
4 handwritten?

5 A. Handwritten.

6 Q. Do you recall how many pages it was?

7 A. I think probably it was three or four
8 questions.

9 Q. In total?

10 A. Yes.

11 Q. Okay. Forgive me, I know -- do you remember
12 anything about these questions?

13 A. No.

14 Q. Do you remember if it was --

15 A. Just basic background information, name and
16 address, and then what did they remember
17 about --

18 Q. Okay.

19 A. -- what happened to them.

20 Q. Do you recall whether the questions that you
21 were given were tailored to the witnesses
22 that you were speaking to?

23 A. Well it was the same for both of them.

24 Q. The questions were the same for both of them?

00083

1 A. Mm-hmm.

2 Q. And you have to give her a verbal answer.

3 A. The same for both of them.

4 Q. Do you recall how you recorded the

5 information that the witnesses gave to you?

6 A. Longhand on paper.

7 Q. Okay. And did you tape-record these

8 conversations?

9 A. No.

10 Q. What did you do with the notes after you

11 wrote them, after interviewing these women?

12 A. Gave them to Rosemary.

13 Q. Did you keep a copy for yourself?

14 A. No.

15 Q. Do you know whether those notes were reduced

16 to a typewritten affidavit?

17 A. No, I don't know.

18 Q. Okay. So you were never shown a typewritten

19 document and asked to review it for its

20 accuracy?

21 A. No.

22 Q. Did you ever have any information about what

23 happened to those notes after you turned them

24 over to Attorney Scapicchio?

00084

1 A. No.

2 Q. Do you recall at what stage in the
3 proceedings in the motion for new trial it
4 was that you spoke to these witnesses?

5 A. Well it wasn't the first day, and it wasn't
6 the sixth day, so it was somewhere between
7 the second and the fifth day.

8 Q. Okay. How do you remember it wasn't the
9 first day?

10 A. Because I would have remembered that.

11 Q. You would have remembered it being the --

12 A. The first day.

13 Q. -- first day of the hearing?

14 A. Yes.

15 Q. Did you know prior to going to court that you
16 were going to be playing this role,
17 interviewing witnesses?

18 A. It didn't seem like much of a role to me. It
19 was just doing a couple of short interviews.

20 Q. Okay. Did you know that this was a task that
21 you would be asked to perform?

22 A. No.

23 Q. Had Ms. Scapicchio or anybody else spoken to
24 you about the need to gather information from

00085

1 the witnesses who were appearing?

2 A. No.

3 Q. Do you recall how it came up that you were

4 asked to do this?

5 A. I think I may have said, Is there anything I

6 can do?

7 Q. And do you recall anything of the substance

8 of the conversation with Ms. Scapicchio?

9 And I'm assuming that it's

10 Ms. Scapicchio that you're speaking to?

11 A. Yes.

12 Q. Okay.

13 A. I think she said, Well you can go and take an

14 affidavit from that person and that person.

15 I said, "Well what does that

16 mean?"

17 She said, "Just write down some

18 answers to some questions."

19 Q. Okay. Do you recall whether you had any

20 conversation with the witnesses other than

21 asking the three or four questions that had

22 been written down for you to ask?

23 (Pause)

24 A. I'm trying to think whether I had any other

00105

1 A. (Shakes head)

2 Q. I'm sorry if I asked this question earlier.

3 You were mentioning that at some point you
4 were in a -- quote, in a cafeteria, I
5 believe, preparing some affidavits for
6 Ms. Scapicchio?

7 A. Mm-hmm.

8 Q. Is that yes?

9 A. (No response)

10 Q. Is that yes?

11 A. Yes.

12 Q. And with respect to those affidavits, you
13 said that you took some notes down about what
14 the individuals had to say?

15 A. Mm-hmm, correct.

16 Q. And when you completed your first affidavit,
17 did you show that to the person you were
18 interviewing and ask them if you had written
19 down what they said correctly?

20 MS. SCAPICCHIO: She hasn't said
21 it was an affidavit, has she?

22 MR. WHITE: That's my
23 recollection.

24 A. I don't remember.

00106

1 Q. Okay. With respect to the second individual,
2 after you had written down what they had to
3 say, do you remember if you ever showed it to
4 them and said, you know, would you look this
5 over and tell me if I got it right?

6 A. If Rosemary had asked me to do that, I would
7 have done that. I don't remember now.

8 Q. And --

9 A. Affidavit may have been the wrong word. It
10 may have just been she wanted me to go and
11 sit down with them and take it down.

12 Q. So a statement, take a statement down?

13 A. Take a statement so that she would then have
14 it, and she could use that for her notes.

15 Q. Okay. Well as you were asking the questions
16 from the -- from the script and the
17 individual was giving you the answers, you
18 were writing --

19 A. Correct.

20 Q. -- it down?

21 A. Correct.

22 Q. And you were trying to take it down to the
23 best of your ability?

24 A. Right.

00107

1 Q. And at any point while you were taking
2 information down, did you ever show it to
3 either of the witnesses to see if you had --
4 see if they agreed with what you had written?

5 A. Normally when I write a letter for a client,
6 I read it back to the client before I type it
7 up, so I may have done that --

8 Q. You may have --

9 A. -- with these women.

10 Q. You may have read it back?

11 A. Yes.

12 Q. And then they --

13 A. And given them a chance to edit it if they
14 wanted.

15 Q. Did you --

16 A. But I don't remember, to be honest, whether I
17 did that or not.

18 Q. Okay. You don't recall any particular edits
19 at this point in time?

20 A. I don't remember any.

21 Q. Thank you. I don't have any further
22 questions.

23 EXAMINATION BY MS. CLIFFORD

24 Q. Ms. West, I just have a few questions. My

00121

1 Q. Were you aware at that time that they had

2 prepared written affidavits?

3 A. No.

4 Q. That's all I have. Thank you.

5 A. Okay.

6 [Whereupon, at 4:15 p.m., the

7 deposition was concluded.]

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